

**August 22, 2006**

SUBJECT: **2006-0087** – Appeal of a decision of the Planning Commission for an application on a 6,211 square foot site located at **734 Ashbourne Drive** (near E. Fremont Ave) in an R-0 (Low-Density Residential) Zoning District.

Motion Variance from Sunnyvale Municipal Code section 19.34.040 to allow a six-foot setback where nine feet is required.

REPORT IN BRIEF

Existing Site Conditions Existing single-story residence

Surrounding Land Uses

North Single-Family Residential

South Single-Family Residential

East Single-Family Residential

West Single-Family Residential

Issues Justifications for a variance

Environmental Status A Class 1 Categorical Exemption relieves this project from California Environmental Quality Act provisions and City Guidelines.

Administrative Hearing Officer's Action Denied Variance application

Planning Commission's Action Denied the appeal, upholding the decision to deny Variance application

Staff Recommendation Deny the appeal and uphold the decision of the Planning Commission to deny the Variance

ANALYSIS

Background

This application was heard before the City Council at the July 18, 2006 meeting (see Attachment 1, RTC 06-223). At that time the Council continued the item to the August 8th meeting so that staff could work with the applicant to come up with cost estimates for alternative building designs. The item was continued again to the August 22nd meeting so that staff and the applicant had sufficient time to gather the requested data.

“Reasonable Accommodation” Under the ADA:

The issue of reasonable accommodation, as stated in the Americans with Disabilities Act (ADA), was raised by the applicant at the July 18, 2006 Council meeting. The issue was also raised by the applicant and City Attorney during the Planning Commission’s review of application.

Generally the reasonable accommodation section is applicable when the governing code (SMC in this case) creates a burden for the property owner. But reasonable accommodation is required only where there is no alternative that would comply with the applicable zoning requirements without undue hardship on the disabled individual. In these cases it is appropriate to grant an exemption from the applicable code in order to avoid an undue burden to the property owner. Reasonable accommodation requirements can include modification of zoning regulations where strict application of the regulations would prevent a qualified person with disabilities from having the same ability as others to utilize the property.

In the subject case, the appellants can both meet the applicable zoning requirements and provide an ADA-compliant restroom at a construction cost that is less than if the variance is approved. Therefore the ADA reasonable accommodation requirement does not require any suspension or waiver of the SMC standards in this case.

Alternative Designs and Costs:

Several staff members met with the applicant at their residence to review alternative designs and project costs. The staff members included the Planning Manager, the project planner, and a building inspector with a construction background. The purpose of the visit was to determine if there were feasible design alternatives to the applicant’s proposed plan. Staff did not seek to design the project for the applicant but did seek to determine, on a conceptual basis only, that alternative designs can be achieved, while still meeting the needs of the applicant.

Staff estimates the minimum construction valuation of a bedroom and bathroom addition is \$80,000. This estimate includes only the basic construction costs of a new master suite and bathroom and does not include additional costs for the type of construction, such as rooflines, sewer line, structural engineering, etc. The estimate is based on a cost per square foot basis of \$200 per square foot and is applied to all the square footage of the home affected by construction, not simply the new 290 square feet. The following is a summary of alternatives which correspond to the floor plan alternative in Attachment 4:

Applicant's Proposed Design: Under the applicant's proposal, there is an addition of 290 square feet proposed to an existing 1,798 square foot single-story residence for a total 2,088 square feet. The scope of the project includes expansion of one of three bedrooms into a master suite and accessible bathroom (five foot minimum turn around area). The addition is proposed to be three feet into the nine foot reducible front yard area.

Although the basic construction valuation for the project is \$80,000, the applicant is proposing a very complicated and expensive roofline over the room addition. The plans show the end gable and load bearing wall pushed out, which will significantly add to the construction costs of the project and will require structural engineering to complete. Staff estimates this project at \$250 per square foot, or \$100,000 total cost.

Alternative Design #1: This plan is similar to the applicant's proposal, except the addition meets all setback requirements. The addition is now 330 square feet and still contains an accessible bathroom. The square footage that was previously in the setback area has been pushed further into the rear yard area under this scenario.

The basic construction valuation for the project is approximately the same at \$100,000. The roofline is still complicated and expensive, although the rear walls have been simplified to some extent. The small lemon tree must be removed or moved under this scenario since it is in the area of addition.

Alternative Design #2: This plan is also similar to the applicant's proposal, except the addition meets all setback requirements, the roofline/walls have been tremendously simplified, and the bathroom sewer line has been shortened over the original proposal. The floor plan layout has been simplified as well. This addition would be 270 square feet and would still contain an accessible bathroom.

This option is the least costly solution for the additional square footage, although it does require more of the rear yard area to be used. Staff estimates the cost for this alternative near the project minimum cost of \$80,000. From a design review perspective, this option will appear less like an addition to the

existing home and more like the original design. The small lemon tree in the rear yard must be removed or moved under this scenario since it is in the area of addition.

Basic Summary

Alternative	Features	Costs
Applicant's Proposal	<ul style="list-style-type: none"> • 290 sf room • accessible bathroom • 120 sf bedroom #2 	\$100,000
Alternative #1	<ul style="list-style-type: none"> • 330 sf room • accessible bathroom • 110 sf bedroom #2 	\$100,000
Alternative #2	<ul style="list-style-type: none"> • 270 sf room • accessible bathroom • 130 sf bedroom #2 	\$80,000

Alternatives

1. Deny the appeal and uphold the decision of the Planning Commission to deny the Variance.
2. Grant the appeal and approve the Variance with attached conditions.
3. Grant the appeal and approve the Variance with modified conditions.

Recommendation

Staff recommends Alternative #1.

Staff cannot make the first required finding regarding exceptional or extraordinary circumstances or conditions that apply to this property due to the parcel's size, shape, use, topography, location, or surroundings. The average parcel size in the surrounding neighborhood is 6,600 square feet, while the subject parcel is 6,211 square feet. Both measures are consistent with SMC standards for the R-0 Zone which specifies 6,000 square feet minimum parcel sizes. The average parcel width is 65 feet in the neighborhood and the subject parcel is 66 feet wide. SMC requires at least 62 feet for corner lots in the R-0 Zone. The site is rectangular and has no topographical features. Therefore, the parcel's shape, size, or topography does not deprive the property owner of a privilege enjoyed by similar property owners.

Staff also cannot find that there are any physical hardships on this property that would allow this finding to be made. This includes the grade change, which is a common situation in Sunnyvale. Staff also does not find the sewer lateral issue to be a unique circumstance or condition that applies only to this property, since it is not an uncommon situation, although it does create a more expensive project for the applicant.

In addition, staff does not find that there is a financial hardship for this property owner. Attachment 4 demonstrates that there are several other designs that would achieve the same square footage and floor plan while reducing overall construction costs.

Staff is able to make the second Variance finding that granting the application will not be materially detrimental to the public welfare. Staff believes the addition will not negatively impact the neighborhood in any measurable sense.

Staff cannot make the third finding that granting the Variance will not grant a special privilege not enjoyed by other surrounding property owners. Approving this request would allow a significant majority of the homes in the neighborhood to make the same findings for reducing the front yard setback, due to similar parcel sizes, lot width, and siting of homes.

Reviewed by:

Trudi Ryan, Planning Officer

Reviewed by:

Robert Paternoster
Director, Community Development Department

Prepared by: Steve Lynch, Project Planner

Approved by:

Amy Chan
City Manager

Attachments:

1. RTC (06-223) from July 18, 2006 meeting, includes Attachments A-I.
2. Draft City Council minutes from July 18, 2006 meeting
3. Additional information submitted by the applicant at the July 18, 2006 Council meeting
4. Site Plan Alternatives